IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

In re:	:	Chapter 11
BEHNEY CORP,	:	Case No. 1:17-bk-01219 (RNO)
Debtor-in-Possession	:	

AFFIDAVIT OF JAY M. BEHNEY IN
SUPPORT OF FIRST DAY MOTIONS AND APPLICATIONS

STATE OF PENNSYLVANIA)
) ss.:
COUNTY OF DAUPHIN)

Jay M. Behney, being duly sworn, deposes and says:

1. On March 29, 2017 (the "Petition Date"), Behney Corp ("Behney"), debtor in possession (the "Debtor"), commenced a case under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code") in this Court. I am the Chief Executive Officer and President of Behney Corp. As such, I am familiar with the day-to-day operations, business and financial affairs of the Debtor.

2. The Debtor continues to operate its business and manage its properties as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. I submit this affidavit to assist the Court and other parties in interest in understanding the circumstances that compelled the commencement of these chapter 11 cases and in support of various motions and applications for relief (the "Motions"). Except as otherwise indicated, all facts set forth in this affidavit are based upon my personal knowledge, information provided to me by certain of the Debtor's employees, my review of relevant documents or my opinion based upon my experience, knowledge

and information concerning the operations and financial affairs of the Debtor. If I were called upon to testify, I would testify competently to the facts set forth in this affidavit. I am authorized to submit this affidavit.

BACKGROUND AND EVENTS LEADING TO
THE COMMENCEMENT OF THE CHAPTER 11 CASES

A. The Debtor's Business Operations

1. Behney Corp is a 52 year old Custom Fabrication shop and Precast Concrete producer that is entering its third generation of ownership and management. Debtor was incorporated under the laws of the Commonwealth of Pennsylvania on January 19, 1974 under the name of Behney Fabrication and Welding, Inc., changing its name to Behney Corp on April 1, 2010. The Company operates as two divisions; the precast concrete division being By-Crete Precast, and the custom job shop being Behney Fabrication. The current revenues for the company are divided at 70% By-Crete Precast, 30% Behney Fabrication. By-Crete Precast provides multiple states with storm and sanitary underground products. These products include Box Culvert, Manholes, Inlet Boxes, and other custom structures. Behney Fabrication is a custom steel fabrication job shop, providing products to the construction industry. They also provide custom precast forms to Precastors all over the east coast. As of the Petition Date, the Debtor employed over 37 employees.

2. Behney Corp operates the company out of a facility (the "Behney Corp Facility") located at 517 King Street, Lebanon, Lebanon County, Pennsylvania (the "Real Property"). The Behney Corp Facility is owned by Behney Corp pursuant to that certain Lease Agreement dated March 14, 2008, and the Real Estate is owned jointly by Jay M. Behney and Jeffrey M. Behney.

B. Corporate and Debt Structure

3. Behney Corp is a Pennsylvania "S" Corporation. There are 500,000 shares of voting stock authorized with 99,905 shares issued and outstanding. Jay M. Behney, President and CEO ("Jay"), and Jeffrey M. Behney, Vice President ("Jeff"), each hold 50% of the outstanding voting stock. There are also 500,000 shares of non-voting stock authorized with 99,905 shares issued and outstanding. Sherri Behney, Secretary/Treasurer of Behney Corp and spouse of Jay ("Sherri"), and Doris Behney, spouse of Jeff ("Doris"), each hold 50% of the outstanding non-voting stock. Doris has no involvement in the Company. Jay, Jeff, Sherri and Doris are hereafter referred to as the "Debtor Principals."

4. The assets of the Debtor are as follows:

a. The Behney Corp Facility (building only) having an approximate value of $3,225,000.00;

b. Accounts receivable of approximately $749,540.18;

c. Raw material and finished inventory of approximately $1,233,680.00;

d. Equipment having an approximate value of $3,541,375.00;

e. Minimal cash on hand.

5. Jay and Jeff jointly own the Real Property upon which the Behney Corp Facility is located. The Real Property has an approximate value of $450,000.00.

6. Prior to the Petition Date, the Debtor was indebted and liable to First National Bank ("FNB"), as evidenced by (a) that certain Revolving Credit Note, dated October 18, 2012, in the original principal amount of $940,000.00 (the "FNB Line of Credit"), made payable to FNB, and (b) that certain Note dated October 18, 2012, in the

original principal amount of $1,550,000.00 (the "FNB Loan" and, together with the FNB Line of Credit, the "FNB Loans"). According to public records, the Debtor believes that the FNB Loans are secured by a first-lien security interest in the Debtor's business assets (the "FNB Corporate Collateral"), as well as personal guarantees by the Debtor Principals (the "FNB Guarantees"), mortgages on the personal residences of the Debtor Principals, and a home owned by Sherri Behney in which Jay and Jeff's mother resides (the "Personal Residence Mortgages"), and security interests in a variety of vehicles and other titled assets of the Debtor Principals (collectively with the FNB Guarantees and Personal Residence Mortgages, the "FNB Personal Collateral").

7. In addition, prior to the Petition Date, the Debtor was indebted and liable to Fulton Bank ("Fulton"), as evidenced by that certain Promissory Note, dated March 14, 2008, in the original principal amount of $2,975,000.00 (the "Fulton Loan"). According to public records, the Fulton Loan is secured by mortgage liens against the Real Property and the Behney Corp Facility, as well as personal guarantees by the Debtor Principals (the "Fulton Guarantees" and, together with the FNB Guarantees, the "Personal Guarantees").

8. As of the Petition Date, the Debtor was indebted and liable to Interstate Fleets, Inc. ("Interstate"), as evidenced by certain Equipment Leases, in the aggregate principal amount of $186,379.40, which is secured by certain equipment, namely trailers and cranes, leased to Debtor by Interstate.

9. As of the Petition Date, Debtor was indebted and liable to Trumpf Finance ("Trumpf"), as evidenced by that certain Master Lease Agreement, dated January 28,

2015, in the principal amount of $192,950.42, which is secured by certain equipment leased to Debtor with Trumpf funds.

10. As of the Petition Date, Debtor was indebted and liable to George D. Manderbach Inc. ("Manderbach"), as evidenced by that certain Retail Installment Sale Contract, dated May 6, 2014, in the principal amount of $17,541.52, which is secured by that certain Ford Edge sold to Debtor with Manderbach funds.

11. As of the Petition Date, Debtor was indebted and liable to De Lage Landen Financial ("De Lage"), as evidenced by that certain Lease Agreement dated February 24, 2016, in the principal amount of $20,827.04, which is secured by certain equipment leased to Debtor with De Lage funds.

12. In addition to the foregoing, the Debtor also has approximately $1,030,636.91 in ordinary course trade debt that was unpaid as of the Petition Date.

C. Events Leading to Chapter 11 Filing and the Current Status of the Case

13. In 2008, after years of sustained growth of the Debtor and the industry, Debtor took on new debt to expand the Behney Corp Facility by an additional 40,000 square feet to house the fabrication department and new offices. Unfortunately, the economic downturn hit at the same time, resulting in Debtor's need for forbearance from its then Secured Lenders. In 2012, Behney entered into a $150,000 Lease Agreement with Interstate to bridge a restructuring transition to Metro Bank (now FNB), which restructuring occurred in October of 2012 (resulting in the now FNB Loans).

14. In 2013 a significant customer of the Debtor filed for bankruptcy during an ongoing project, leading to a $132,418 loss to the Debtor, and in 2014 the Debtor became embroiled in a dispute regarding a culvert project that was completed, which also

resulted in significant losses, including legal and other professional fees. After a modification to the FNB Line of Credit in 2014, Debtor ultimately could not maintain the financial covenants under the FNB Loans and entered into a Forbearance Agreement with Metro Bank in 2015, which modified the covenants slightly to better facilitate the Debtor's seasonal business and provide the necessary liquidity to allow the business to operate efficiently and increase sales.

15. As a result of the modified terms in the Metro Bank Forbearance Agreement, Debtor was starting to grow a backlog of projects for late fall of 2016 and was poised to make a significant turnaround. Metro Bank was pleased with the results and was in discussions with the Debtor to either extend the Forbearance Agreement or otherwise modify the terms of the FNB Loans to reflect the more appropriate financial covenants until the influence of FNB, who was in the process of acquiring Metro Bank in early 2016, caused such negotiations to come to a halt. The Debtor, understanding that the imminent acquisition of Metro Bank by FNB in early 2016 might result in a different and less cooperative relationship going forward, sought a short extension of the Forbearance Agreement in order to actively seek refinancing of the FNB loan obligations. Unfortunately, and despite the Debtor's continued performance under the Forbearance Agreement (which included the payment of forbearance fees and other associated costs and expenses), the Debtor's request to extend the Forbearance Agreement was rejected, and the Forbearance Agreement expired by its terms on December 31, 2015. As a result of the expiration of the Forbearance Agreement, the Debtor was immediately out of covenant and in technical default under the FNB Loans, which caused there to be no availability under the line of credit. Therefore, despite the significant prospects that were

forthcoming and the Debtor's continued growth and performance during the forbearance period, the Debtor's lack of cash liquidity due to the technical default caused a rapidly declining cash balance, undercapitalization, and eventual failure to continue timely payment of certain secured debt, including that of Fulton and, in October of 2016, FNB.

16. Unable to sustain the business model in the face of mounting debts, and faced with an upcoming unprofitable winter season, the Debtor continued in its attempts to seek refinancing of the FNB Loans and the Fulton Loans, and also shared information with and engaged in discussions with FNB and Fulton with the goal of consensually restructuring the Debtor's balance sheet to bring it into line with the Debtor's current debt servicing capabilities, all to no avail.

17. In the summer and fall of 2016, FNB and Fulton filed confessed judgment and mortgage foreclosure proceedings against the Debtor and the Debtor Principals. Specifically, FNB and Fulton filed the following actions against the Debtor and the Debtor Principals:

(a) Fulton Bank N.A. vs. Behney Corporation, formerly Behney Fabrication and Welding, Inc. (Complaint in Mortgage Foreclosure) (CP Lebanon 2016-01326)

(b) Fulton Bank N.A. v. Jay M. Behney, Sherri Behney, Jeffrey M. Behney and Doris Behney. (Complaint in Mortgage Foreclosure) (CP Lebanon 2016-01327);

(c) Fulton Bank N.A. v. Behney Corporation, formerly Behney Fabrication and Welding, Inc. (Confession of Judgment) (CP Lebanon 2016-01121)

(d) Fulton Bank N.A. v. Jay M. Behney, Sherri Behney, Jeffrey M. Behney and Doris Behney (Confession of Judgment) (CP Lebanon 2016-01122);

(e) First National Bank v. Behney Corp, Jeffrey M. Behney, Doris A. Behney, Jay M. Behney and Sherri L. Behney (Confession of Judgment) (CP Lebanon 2016-01768);

(f) First National Bank v. Behney Corp, Jeffrey M. Behney, Doris A. Behney, Jay M. Behney and Sherri L. Behney (Confession of Judgment) (CP Lebanon 2016-01769);

(g) First National Bank v. Jeffrey M. Behney and Doris A. Behney (Complaint in Mortgage Foreclosure) (CP Lebanon 2017-00088);

(h) First National Bank v. Jay M. Behney and Sherri L. Behney (Complaint in Mortgage Foreclosure) (CP Lebanon 2017-00089); and

(i) First National Bank v. Sherri L. Behney (Complaint in Mortgage Foreclosure) (CP Lebanon 2017-00090).

As a result of the filing of these actions, Debtor's cash liquidity continued to deteriorate at an even more rapid pace. The Debtor and the Debtor Principals have been actively defending the actions, including filing preliminary objections, answers, petitions to open or strike, and engaging in written discovery and multiple hearings on procedural and substantive issues. The ongoing and unrelenting nature of the litigation has been extremely taxing on the Debtor Principals, not only in cost but also in time and stress, all of which has resulted in taking away from the Debtor Principals' ability to focus on the ongoing operations of the business and the restructuring efforts

18. As the Debtor seemed unable to restructure the debt via its current lenders or other replacement lenders, it engaged a broker to actively seek out potential purchasers of the company. Unfortunately, and in large part due to the unwillingness of FNB and Fulton to enter into forbearance agreements or otherwise work with the Debtor as it sought to market the company for sale or seek alternate lenders for refinancing the secured debt, the Debtor was unable to procure a proposal suitable to the secured lenders.

In addition, and despite the Debtor's continued efforts to workout the FNB Loans (including providing a letter of intent for a proposal that would repay the FNB Loans in full by October of 2017), FNB issued a writ of execution freezing the Debtor's operating account at BB&T. As a result of that drastic action, and in order to adequately operate its business as an ongoing concern, the Debtor filed this Chapter 11 bankruptcy case.

FACTS IN SUPPORT OF FIRST DAY MOTIONS

19. The Debtor requests that the relief requested in each of the Motions described below be granted, as each request for relief constitutes a critical element in achieving the successful rehabilitation and reorganization of the Debtor for the benefit of all parties in interest.

Expedited Motion of Debtor for Interim Order Authorizing the Use of Cash Collateral and Granting Adequate Protection

20. As of the Petition Date (as defined below) the Debtor was indebted and liable to FNB, Fulton and other secured lenders (the "Secured Lenders") in the aggregate current principal amount of $5,035,153.34. According to public records, FNB is secured by a blanket lien against the Debtor's business assets, including cash, accounts receivables, and inventory.

21. Currently, the Debtor has no available cash or assets readily convertible to cash that are not subject to the FNB's liens and security interests. As a result, the Debtor requires, pursuant to sections 105(a), 361, 362, and 363 of the Bankruptcy Code, the use of FNB's cash collateral (the "Cash Collateral") to pay its necessary operating expenses, and to preserve and increase the value of its assets for the benefit of all creditors and parties-in-interest, including the Secured Lenders.

22. If this Court approves the Debtor's use of Cash Collateral, the Debtor will

be in a position to fund its operating expenses as a going concern. The Debtor needs to use the Cash Collateral in order to fund payroll and satisfy employee obligations, pay vendors and suppliers, pay utilities and insurance, purchase inventory, materials and supplies, pay various equipment leases, and meet other ongoing business obligations. Payment of these expenses, including significantly the retention of current employees, is necessary to preserve and maintain the value of the Debtor's assets for the benefit of the Debtor's estate and creditors, and will result in immediate and irreparable harm if not granted immediately on an interim basis. Without the authority to use Cash Collateral, the Debtor will not be able to satisfy its payroll obligations or fund its business operations in a manner that will allow the Debtor to continue to operate as a going concern, all to the detriment of all creditors of the Debtor.

23. A denial of the use of the Cash Collateral to fund the Debtor's continuing day-to-day operations would severely damage not only the Debtor and its current employees and customers, but also FNB and other creditors of the Debtor. Further, the denial of the use of Cash Collateral will cause immediate and irreparable harm to the reputation, goodwill, and public confidence in the Debtor, a consequence that can only translate into a drastic loss of value as a going concern.

24. Moreover, the Secured Lenders will benefit from approval of the request to use Cash Collateral because the Debtor intends to preserve the Secured Lenders' collateral through a reorganization or sale of the Debtor's business.

25. Perhaps most importantly, the Debtor believes that because FNB is over-secured, adequate protection is not necessary to protect the value of its interests in the Cash Collateral. Nonetheless, the Debtor is willing to provide adequate protection to

FNB in the form of a first priority replacement lien in all Post-Petition Cash Collateral, and to the extent there is a diminution in the Cash Collateral post-petition, a super-priority claim pursuant to Section 507(b) of the Bankruptcy Code in the amount of such diminution. Accordingly, the Debtor's use of Cash Collateral as provided herein, which maximizes and preserves the value of the Prepetition Collateral, is necessary and represents the sound business judgment of the Debtor.

Expedited Motion for Order, Nunc Pro Tunc to the Petition Date, Authorizing Debtor to Maintain Existing Bank Accounts

26. The Debtor maintains its accounts with BB&T, Wells Fargo, and First National Bank (the "Existing Accounts"). The account at BB&T operated as Debtor's primary account prior to the filing of its bankruptcy petition.

27. The Debtor seeks authority to maintain its Existing Accounts. This relief is necessary to avoid the disruption entailed in attempting to replace the Debtor's bank accounts with new counterparts.

28. The Debtor believes that the continuation of the Existing Accounts is necessary to minimize the interference with and disruption of the Debtor's operations that result from the Chapter 11 process. Requiring the Debtor to close its Existing Accounts and open new counterpart accounts would inevitably lead to operational and administration difficulties, confusion, and disruption and delay in collections and payments which would inevitably jeopardize Debtor's functioning as a going concern.

29. Authorizing the Debtor to maintain its Existing Accounts would save a substantial amount of time and expense that otherwise would be required to transition the ACH, Paypal, and ExpertPay transfer instructions of Debtor's numerous vendors and

clients. Absent the relief requested in the motion, the Debtor would face significant disruption in its ordinary financial affairs and business operations.

30. By preserving business continuity and avoiding the operational and administrative paralysis that changing the cash management system, bank accounts, and business forms would necessarily entail, all parties in interest will be best served and the Debtor will benefit considerably from the relief requested in the motion.

Expedited Motion for Authority to Pay
Prepetition Wages, Compensation and Employee Benefits

31. As of the Petition Date, the Debtor owed employees for earned wages, salaries and commissions (including amounts to be withheld from employees' checks for state and federal taxes, vacation pay, sick days, insurance, probations, domestics, and other forms of compensation).

32. The Debtor generally pays all of its employees on a weekly basis. The Debtor last paid its employees on March 16, 2017. Debtor was unable to pay its workforce on March 23, 2017 due to the fact that its operating account from which payroll is paid was frozen by BB&T in response to a Writ of Execution in underlying litigation. The March 23, 2017 payment covered wages and salary earned by the Debtor's employees during the period from March 12, 2017 through March 18, 2017. The next date on which the Debtor is to pay its workforce is March 30, 2017, which will cover wages and salary earned by the Debtor's employees during the pre-petition period from March 19, 2017 through March 25, 2017. Thereafter, the next date on which the Debtor is to pay its workforce is April 6, 2017. The April 6, 2017 payment will cover wages and salary earned by the Debtor's employees during the period from March 26, 2017 through April 1, 2017, and as a result, a portion of the compensation payable on

April 6, 2017 will have been earned pre-petition (collectively with the March 30, 2017 payment, the "Pre-Petition Compensation").

33. The Debtor estimates that the total unpaid Pre-Petition Compensation that is due or will be due to its employees is approximately $91,104.16 based upon a typical weekly payroll of $37,620.00.

34. Considering the nature of the Debtor's business, the continued employment of its employees is vital to the success of the Debtor's Chapter 11 reorganization. The services of the employees are required to enable the Debtor to maximize the value of its assets and to comply with its duties as a debtor-in-possession.

35. The Debtor's employees rely on their regular paychecks being paid in the usual and normal course of business in order to meet their personal obligations on a timely basis. The Debtor's employees could not reasonably be expected to continue working for the Debtor absent the continuity of payroll and related compensation payments.

36. Any delay in paying the Pre-Petition Compensation will severely disrupt the Debtor's relationship with its employees and impair employee morale at a time when their dedication, confidence, and cooperation are most critical. If the relief requested herein is not granted, the employees will suffer great hardships, and in many instances, be unable to honor their own personal financial obligations.

37. The Debtor avers that the gross amount of wages or salary due to any individual employee is less than the $12,850.00 priority amount established by section 507(a)(4) of the Bankruptcy Code.

38. In the event that Pre-Petition Compensation due and owing any individual employee exceeds $12,850.00, the Debtor will limit payments of Pre-Petition Compensation to the priority amount established in section 507 of the Bankruptcy Code.

39. For the reasons set forth herein, the Debtor seeks authority to pay the Pre-Petition Compensation, including all local, state, and federal withholding and payroll-related taxes arising during the pre-petition period; all other withholding taxes, including, but not limited to, Social Security taxes, Medicare taxes; and all other applicable deductions, including, but not limited to, insurance, probations, and domestics.

Expedited Motion for an Order Staying or Enjoining Prosecution of Certain Pending Litigation Against Debtor's Officers, Directors and Non-Debtor Affiliates

40. As of the Petition Date (as defined below) the Debtor was indebted to FNB and Fulton (collectively, the "Prosecuting Creditors") in the principal amounts of $2,417,616.00 and $2,199,838.96, respectively. According to public records, Fulton is secured by mortgages on the Real Property (defined below) and Behney Corp Facility, the value of which is estimated to be approximately $3,675,000.00, and FNB is secured by a blanket lien against the Debtor's business assets, the value of which is estimated to be over $5,500,000.00. Both of the Prosecuting Creditors are also secured via the Personal Guarantees of the Debtor Principals and FNB is secured by the FNB Personal Collateral.

41. Due to a combination of its undercapitalization, slow performance during the winter months, and the unwillingness of certain of the Prosecuting Creditors to work with the Debtor to restructure its debt in a way that was compatible with its business model (despite being over-secured), the Debtor became unable to continue payment on its

secured debt to the Prosecuting Creditors. As a result, the Prosecuting Creditors filed confession of judgment actions and mortgage foreclosure actions against the Debtor Principals, resulting in a writ of execution being served by the sheriff on the Debtor Principals with respect to their personal assets (collectively, the "Actions"). Debtor Principals have actively engaged in defending themselves and their assets in each of the Actions filed against them, which has caused tremendous stress and strain on the Debtor Principals and their families. As the Debtor Principals are also the individuals primarily responsible for the day-to-day operations of the Debtor, this stress and anxiety has been detrimental to their ability to concentrate on the operations and reorganization of the business.

42. During this Chapter 11 Case the Debtor intends to continue its operations as an ongoing concern and eventually restructure the balance sheet in order to bring it in line with the Debtor's debt servicing capabilities for the benefit of the estate and the Debtor's creditors, including the Prosecuting Creditors. The Debtor believes that there is more than sufficient value in the Debtor's assets securing the claims of the Prosecuting Creditors to allow the Debtor to adequately reorganize or otherwise satisfy the debts owed to the Prosecuting Creditors without the need to liquidate or seize the personal assets of the Prosecuting Creditors. Moreover, the continued prosecution of the Actions against the Debtor Principals will undoubtedly hinder their roles in the Debtor's restructuring efforts and the defense of the Actions by the Debtor Principals will likely have a negative impact on the property of the Debtor's estates.

43. The Debtor seeks an order staying and enjoining the continued prosecution of the Actions against the Debtor Principals. Section 105(a) of the Bankruptcy Code

provides the Court the ability to extend the automatic stay to non-debtors and enjoin actions against non-debtors in situations where the non-debtor and debtor enjoy such an identity of interests that the suit against the non-debtor is essentially a suit against the debtor, and when the third-party action will have an adverse impact on the debtor's ability to accomplish reorganization. The Debtor respectfully submits that because the Prosecuting Creditors are over-secured by the assets of the Debtor with respect to the claims raised in the Actions against the Debtor Principals, which claims arise from the same debt obligations owed by the Debtor, and because the Actions would negatively affect the continuation of the business in the ordinary course and hinder the roles of the Debtor Principals in the restructuring effort of the Debtor, the relief requested herein is wholly appropriate and necessary to the effective reorganization of the Debtor.

CONCLUSION

The Debtor hopes to confirm a plan of reorganization and emerge from chapter 11 in as short a time as is necessary. The Debtor believes that the protections afforded by chapter 11 will enable it to develop, implement and consummate a financial restructuring that will provide for the equitable treatment of all claims and interests, and preserve the value of its assets for the benefit of creditors and equity security holders alike.

BEHNEY CORP

By: [signature]
Name: Jay M. Behney
Title: President

Sworn to before me on this
28 day of March, 2017

[signature]
Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Pamela S. Fox, Notary Public
Jackson Twp., Lebanon County
My Commission Expires Jan. 17, 2020
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES